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NOMINATION OF ROBERT LOGAN CLARKE

HEARING

BEFORE THE

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS UNITED STATES SENATE

NINETY-NINTH CONGRESS

FIRST SESSION

ON

THE NOMINATION OF ROBERT LOGAN CLARKE, OF TEXAS, TO BE THE COMPTROLLER OF THE CURRENCY FOR A TERM OF 5 YEARS FROM DECEMBER 2, 1985

NOVEMBER 12, 1985

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NOMINATION OF ROBERT L. CLARKE TO BE COMPTROLLER OF THE CURRENCY

TUESDAY, NOVEMBER 12, 1985

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
Washington, DC.

The committee met at 9:30 a.m., in room SD-538, Dirksen Senate Office Building, Senator Jake Garn (chairman of the committee) presiding.

Present: Senators Garn, Gorton, Mattingly, Hecht, Gramm, Proxmire, Cranston, Riegle, Dodd, Dixon, and Sasser.

OPENING STATEMENT OF CHAIRMAN GARN

The CHAIRMAN. The Banking Committee will come to order.

The purpose of this morning's hearing is to consider the nomination of Mr. Clarke to be the Comptroller of the Currency. Mr. Clarke, we're happy to have you before us and I understand that Senator Gramm is coming to introduce you.

Another fact that you should be aware of is that Senator Proxmire and I both have done something very silly over the years. He has a 100-percent voting record for I don't know how many years—15 years or something like that on the floor. I vowed 5 years ago when I became chairman of this committee that it would never start late. And it never has. It always starts right on time, even when Senators are not here and even sometimes when witnesses are not here. Both of us have got ourselves into a precedent. I've learned to play O.J. Simpson running down the hall sometimes to get here so that I wouldn't break my record.

But nevertheless, to keep that record intact, we will start and when Senator Gramm comes we will have him introduce you and, of course, we can adjust the record to make sure that his introduction appears before anything else takes place in the record.

We are very happy to have you here today, not only you personally but just the fact that we finally have a nominee for Comptroller of the Currency. As I said to you when we met privately, we have had several months since we have had an official Comptroller. The situation in the banking industry is such that I believe we need a full-time team in all the regulatory agencies and I have been urging the administration since Todd Conover announced that he would be leaving a long time ago, nearly a year ago, that we proceed. So when I say that we're happy you're here this morning, I sincerely mean that, that we can have the opportunity to ques-

tion you and have you confirmed and get you to work. I think it's important that we do that.

Senator Gramm, if you would like to come up, we would be happy to recognize you at this time, not only as a distinguished Member of the Senate but also of this committee.

OPENING STATEMENT OF SENATOR GRAMM

Senator GRAMM. Mr. Chairman, let me thank you. I was over trying to do the Lord's work on our coming conference on the debt ceiling and the budget. That's why I'm late. I can be very brief.

I know Robert Clarke well. He is a man with a distinguished career beginning with outstanding academic performance at Rice and Harvard Universities. He has over 30 years of experience in bank-related matters. He is a distinguished attorney practicing principally in the banking and financial institutions area.

I think it's fair to say that he is widely known and respected all over Texas and all over the country by people who work in this area and I strongly support his appointment.

I can say as a fellow who used to be a monetary historian of sorts and an economic historian that 10 years ago I couldn't have told you who the Comptroller was. Basically because at that point with the problems we faced in our financial institutions and their basic strength which were minimal, it was primarily a function which was important only in carrying out an ongoing system.

As you know, Mr. Chairman, more than most, all of that has changed. The Comptroller of the Currency today is a very powerful and important decisionmaking position. We have banks all over the country that are in trouble. We face very difficult times and difficult adjustments requiring wise decisions and I believe that Bob Clarke will make those decisions. That's why I am strongly in favor of his appointment and I commend him to you.

The CHAIRMAN. Thank you very much, Senator, and may I say that I wish you well in your negotiations because I don't like to stay up until 2 o'clock in the morning. I'm getting too old for those long sessions. So we certainly understand what you're doing and hope you are successful in convincing the House of Representatives to come to some reasonable accommodation.

Senator GRAMM. Well, I hope that's possible as well. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Proxmire.

Senator PROXMIRE. I have no opening statement, Mr. Chairman.

The CHAIRMAN. Senator Hecht.

Senator HECHT. Thank you, Mr. Chairman. I was very impressed with the gentleman before us and, like you, I'm happy to get on with the selection process and get him in.

The CHAIRMAN. Thank you very much.

Mr. Clarke, may I ask you to stand and be sworn.

[Whereupon, the witness was duly sworn.]

The CHAIRMAN. If you have an opening statement we would be happy to hear from you at this time.

ROBERT LOGAN CLARKE, OF TEXAS, TO BE THE COMPTROLLER OF THE CURRENCY

Mr. CLARKE. Mr. Chairman, I don't have an opening statement. I would just say that I'm very honored to have been nominated by the President to serve in this administration and I look forward if I'm confirmed to coming back and meeting with this committee on a number of occasions.

I would like to introduce to the committee my wife, Puddin, who is sitting back here behind me.

The CHAIRMAN. We're happy to have you here today.

Senator Mattingly, do you have any opening statement you wish to make?

OPENING STATEMENT OF SENATOR MATTINGLY

Senator MATTINGLY. I would just like to welcome you, Mr. Clarke, before the Banking Committee and hope your confirmation is a speedy one. I certainly do not anticipate any problems. I think the banking industry finds itself faced with many problems with over 100 banks that may fail this year, the Farm Credit System in need of repair, and the Third World countries in need of additional cash. Those are just a few of the problems that I think you're going to face when you assume office.

However, I think you go to the Comptroller of the Currency possessed with a working knowledge of all this and many of the other problems facing our national banks. Business Week labeled you one of the banking industry's top lawyers and I believe an individual with your knowledge and experience is needed during these highly turbulent times.

So I look forward to working with you and please feel free to call on us if there's anything we can help you with, but I'm sure you will have your sack full when you get there. Welcome.

Mr. CLARKE. I expect so. Thank you.

The CHAIRMAN. Thank you, Senator Mattingly.

Mr. Clarke, before we begin, I have statements from Senators D'Amato and Dixon that I would like to include in the record.

STATEMENT OF SENATOR ALFONSE M. D'AMATO

Senator D'AMATO. I would like to welcome Mr. Clarke to the first of what will be his many appearances before the committee. As the President's nominee to the position of Comptroller of the Currency, Mr. Clarke will be confronted with very serious questions regarding the health of this Nation's commercial banking system. We are experiencing a period of record bank failures which have disrupted the economy but have yet to undermine the public's confidence in the banking system.

The preservation of the public's confidence in the system is largely dependent upon their belief that Federal regulators, such as the Office of the Comptroller of the Currency, will make every effort to ensure the safety and soundness of the banking system. I look forward to working with Mr. Clarke in addressing two banks in New York State, the Golden Pacific Bank in New York City and the Peoples National Bank of Monsey, NY, to assure the customers of those banks that the Comptroller's Office acted to protect the de-

positors in those institutions. The closing of both of these banks has created much controversy in their respective communities. A failure to address adequately depositors' concern will result in the further erosion of the confidence the depositors adversely affected by these failures have in the banking system.

Although you have excellent credentials regarding the chartering of financial institutions, I hope you realize that much of your time will be spent in the working out of troubled financial institutions. The task with which you are confronted will not be easy, but hopefully your excellent professional and academic backgrounds will serve you well.

I look forward to working with you in the future to resolve the difficult issues facing the banking system during the next few years.

STATEMENT OF SENATOR ALAN DIXON

Senator DIXON. I am pleased to be here this morning as the Senate Banking Committee considers the nomination of Robert Clarke to be Comptroller of the Currency.

These are times of great change for our Nation's banking industry. Already this year, a record 100 banks have failed, and a record number of banks are on the Federal Deposit Insurance Corporation's problem list.

There are major changes under consideration in the Federal Deposit Insurance System. Questions surrounding new bank powers that this committee has considered in the past two Congresses also still need to be resolved.

The Comptroller of the Currency will be in the middle of these issues and of the numerous other issues facing our Nation's banks. The challenges facing the Comptroller are numerous.

I look forward to hearing from this morning's witness, therefore. I appreciate the opportunity to gain some insight into his views on banking issues.

The CHAIRMAN. Mr. Clarke, in your statement filed with this committee you submitted a letter dated October 24, 1985, which you wrote to Mr. David H. Martin, Director of the Office of Government Ethics. Are you familiar with the contents of that letter?

Mr. CLARKE. Yes.

The CHAIRMAN. Does it spell out the actions which you will take to avoid not only any conflict of interest but even the appearance of a conflict of interest?

Mr. CLARKE. Yes, sir.

The CHAIRMAN. Do you agree to appear before this or any other committee of Congress if requested to do so?

Mr. CLARKE. Yes, sir, I do.

The CHAIRMAN. I guarantee you you will be requested to do so.

Mr. Clarke, first of all, just a very general question. What is your overall view of the health of the financial services industry?

Mr. CLARKE. Mr. Chairman, I have not been in the Comptroller's Office at all. I have really not had an opportunity to visit with people in the office and have not been privy to any of the confidential information about the overall condition of the industry. So, to

some extent, my answer is going to be based on what all of us read in the press.

But I have the impression that the industry as a whole is very sound. I think there are some financial institutions that have had problems and are still experiencing problems and those are getting a lot of publicity, but I think overall that the industry is in good shape.

DEPOSIT INSURANCE REFORM

The CHAIRMAN. I understand that you have not been in the office yet. We have held a number of hearings this summer and early fall on deposit insurance reform. Do you have any preliminary views on the need for, first of all, legislation in this area and any ideas on what direction we might pursue as far as deposit insurance reform? You will be a member, of course, of the FDIC Board.

Mr. CLARKE. Yes, sir. I have been following the activities of the committee in its hearings and discussions about deposit insurance reform. I think that deposit insurance reform should be part of an overall legislative program to deal with the financial services industry. I hope that the committee in proposing legislation would take a look at what kind of financial services industries we have now and expect to have in the future and perhaps take a more global look at changes, and that would include some of the specific changes that have been proposed before this committee, but all as a package. I hope that the committee will not deal with the issues piecemeal.

The CHAIRMAN. Well, I would agree with you, but Senator Proxmire and I have tried to take the global view for a long number of years and legislation has passed this committee and has passed the Senate that has not become law because of the unwillingness of the House of Representatives to consider those changes or even go to conference. That is exactly why we started hearings on deposit insurance reform because of the inability to look at the broader picture.

So do you feel that we should still hold on even though it has now been 3 years last month since Garn-St Germain passed and I certainly had not anticipated that 3 years would transpire without additional steps taken in this process. I felt very strongly that with the pockets of great difficulty that occur or are occurring in the financial services industry that I could no longer wait for that global picture and had to move ahead with deposit insurance reform and see if we could make the FDIC and the FSLIC stronger to instill more confidence in the marketplace and avoid some of the troubles that we are having in various parts of the country. Ohio and Maryland, although they were State-insured and State-chartered institutions, nevertheless, a lot of people don't recognize those differences and we feel the necessity to try and move ahead and put some of that confidence back into the marketplace.

So, in your opinion, should we stick with that global view and 5 years from now while we're still waiting for the House of Representatives to go to conference be talking about deposit insurance reform or do you think it makes some sense to separate and move ahead?

Mr. CLARKE. Well, I recognize the frustration that you've had, but I think I still would like to see the committee try to accomplish as much as is possible at one time and I think to the extent it becomes politically impossible to do, then you have to get what you can.

The CHAIRMAN. How long do we keep trying? It's 3 years now. Do we wait another year, send up smoke signals to the House? What do we do?

Mr. CLARKE. Well, I think you just have to keep trying. I don't think you should ever quit. If it takes 3 years or 2 years, whatever.

The CHAIRMAN. This pair never quits. We never quit.

Mr. CLARKE. I understand.

The CHAIRMAN. Do you have any initial thoughts on bank supervision in general? There's been a lot of comment in three areas—the areas we've been talking about—additional deregulation, changes in powers, deposit insurance reform, but there's also been a great deal of talk and, of course, the Bush task force on supervision and regulation. Do you have some preliminary ideas on how you can improve supervision and regulation in the Comptroller's Office?

CHARGED TO PROTECT SAFETY AND SOUNDNESS OF BANKS

Mr. CLARKE. Of course, that's the issue in which the Office is most directly involved. The responsibility of the Office is to protect the safety and soundness of the banks and it does that job by supervising them, by examining them, and where the examinations show weaknesses, by helping them back to health.

I think there probably are some things that can be done in that area. Certainly the Bush task force study has made a great step forward in recommending some consolidations that I think would provide some efficiencies. I know that the Comptroller's Office has under study a more targeted examination procedure which would focus the resources of the Office more directly on the banks that have trouble rather than just on a calendar-driven type of examination schedule.

There is one area that I hope to come back and talk to you about in more detail once I have all my facts and figures together and that is the disadvantage that the Office has as opposed to the FDIC and the Federal Reserve System in attracting and keeping good examiners. There is a differential in the compensation that can be paid by the Comptroller's Office to its personnel as compared to what can be paid by the FDIC and by the Federal Reserve System. As you probably know, there is legislation that's been introduced in the House sponsored by a number of members of the House Banking Committee that would, among other things, remove the cap on the pay in the Comptroller's Office. I think it would go a long way to helping solve the problem of recruiting and keeping good examiners if the pay could be more competitive with the other two agencies.

The CHAIRMAN. You mentioned coming back when you had more detail. That's one of the reasons we have not held additional hearings. We've been waiting both for your confirmation and also for the new Chairman of the FDIC because we have had changes in

those positions since we started. So very definitely we will expect you back when you have had an opportunity to answer our questions very specifically, both you and the new head of the FDIC.

ABUSES OF BROKERED DEPOSITS

The CHAIRMAN. Mr. Clarke, do you have any ideas at this point on how we ought to deal with brokered deposits? That has been a difficult subject because some would just do away with brokered deposits. Obviously, in many cases they are useful. There have also been great abuses of brokered deposits that have been involved in some of the more highly publicized bank failures over the last 2 or 3 years.

What are your views on brokered deposits and what direction we might go in coming up with a better definition of those and how they are supervised?

Mr. CLARKE. I agree with you that brokered deposits have been the cause of abuse of a number of banks and if you look at the banks that have failed there is evidence that a significant number of those banks did have large amounts of brokered deposits in them.

But I think you also need to think about the funding sources that those brokered deposits provided and recognize that there are banks that have made very good use of those deposits. I would hate to see a resolution of that issue by just prohibiting the use of brokered deposits altogether or making them so unattractive that none of the banks would be able to utilize them.

I believe that the use of brokered deposits should be monitored in the course of the examination of banks. Abuses should be detected and where banks are found to be making an improper use of brokered deposits, that should be called to the management's attention and if the problem is not brought into line with reasonable standards, then appropriate enforcement action should be taken against those banks.

The CHAIRMAN. Mr. Clarke, are you familiar with the provisions we had in my bill last year on brokered deposits?

Mr. CLARKE. No, sir, I'm not.

The CHAIRMAN. Well, if you're not familiar with it, it won't do me any good to pursue it. When you come back, there were some specific recommendations there—there were several—but one that finally ended up in the bill on brokered deposits, so when we come back again you could be prepared to be specific about legislative language in order to implement what you've said. I don't disagree with what you've said in general. You're saying let's take a balanced view. Again, as Comptroller, I'd like to have some specific recommendations on legislative language of how we do that.

Senator Proxmire.

Senator PROXMIRE. Mr. Clarke, I notice you have had extraordinarily extensive experience in Texas politics, both as a party official and contributor. In fact, I can't recall any other nominee for the Comptroller of the Currency who's had quite the political background that you've had.

The Comptroller's job is an especially sensitive job. It has, by and large, been removed from partisan politics. For example, John Hei-

mann, who was Comptroller under President Carter, his first job was to investigate the banking problems of Bert Lance who was a close, personal friend of the President. Heimann could have swept those problems under the rug. Instead, he issued a professional but critical report that eventually led to Mr. Lance's undoing. Had Mr. Heimann had stronger political ties to the White House or the Democratic Party, I doubt that he would have been as critical as he was.

What assurances can you provide to this committee that, if confirmed, you will carry out your duties without regard to political consequences and without favoring one political party or another?

Mr. CLARKE. Senator, the only assurance I can give you is that I would not be interested in this job if I weren't prepared to separate myself from political considerations in making the kinds of investigations and judgments that will be required under circumstances such as you described in the *Lance* case. I think when you take on a responsibility like this you have to be prepared to do that and just commit that you're going to do it. I would make that commitment to you.

Senator PROXMIRE. Well, I welcome that view. One of the difficulties with the Comptroller's posture as a regulator is of course that he is an appointee in the Treasury Department and he's the one regulator that doesn't have the kind of independence the Federal Reserve has and the FDIC has. And that makes it particularly desirable it seems to me that you should have the view that you just expressed.

I have great respect and admiration for the Secretary of the Treasury, Mr. Baker. He's an outstanding man. He is also a fellow Texan I understand. But he is, after all, part of the President's family and party and that's why I think it's so important under these circumstances that we remove politics from the regulatory positions.

As you know, one of the most important jobs of the Comptroller is to determine what powers are incidental to banking that can be performed by national banks. In the past, there's been concern that some Comptrollers have had an open-ended view of what constituted incidental powers. Some Comptrollers have even approved powers for national banks that would be illegal if carried out by a nonbanking affiliate of a bank holding company.

Does it make any sense to you that a national bank should have broader powers than its bank holding company parent?

EXPANDED POWERS OF BANKS

Mr. CLARKE. Yes, sir; I think under some circumstances that could be the case. Let me just say in response to that question on the issue of broader powers, I think that any determination that is made by this committee legislatively or by any of the administrative agencies that regulate the banks should always be governed by an overriding concern for the safety and soundness of the banking system.

But I think under the umbrella of safety and soundness there is room for expanding the powers that banks have and, as you know, this can be done either by expanding the laundry list of permitted

powers under the Bank Holding Company Act or by expanding the powers that are available to national banks either directly or through subsidiary corporations.

One of the concerns that I have, and I know others have come before this committee and expressed the same concern, is for the profitability of the banking industry. One of the things that causes the industry to be safer and sounder is its ability to generate a fair return and build its capital. So I would support the expansion of bank powers but always recognizing that first and foremost must be the consideration of safety and soundness.

Senator PROXMIRE. Well, I respect that and I would agree that the banking powers should be expanded. I, of course, enthusiastically supported the bill that the chairman engineered through the Senate by an overwhelming vote last year. It was, I thought, a very good bill. It did expand the powers of banks.

But the question is whether or not it should go beyond the power that the holding company has. The whole concept of the bank holding company was that the banks should be confined to banking but that the bank holding company is a device that would provide a little more flexibility and permit the bank holding company to reach out into some other areas and would still permit safety and soundness for the bank itself.

The standard under the Holding Company Act is that any activity must be closely related to banking. So it seems to me hard to justify having a situation where the Bank Holding Company Act is more restrictive than the act affecting the bank itself. That just seems to be a contradiction.

Mr. CLARKE. Well, there definitely can be a conflict, I agree, but given the fact that you have a number of banks that are not part of holding company systems or even subsidiaries of a bank holding company, it seems to me there should be some latitude for those banks to expand their powers.

Now I will go on to say that I do support the proposition that the use of a bank holding company is a good way to separate these other activities from the bank and I think that's a very important consideration as you're looking at the issue of safety and soundness. To the extent that there are risks associated with those expanded activities, it would be well to separate those from the banks.

Senator PROXMIRE. As you know, the issue of nonbank banks is now before the Supreme Court. What assurances can you give the committee that you will not take any action to approve applications for nonbank banks unless and until your authority to do so is clarified by the Supreme Court and the Congress?

Mr. CLARKE. Well, I would just tell you that I will not. You're very correct that the whole issue of the utility of nonbank banks is before the Supreme Court and should the Court rule that nonbank banks owned by a corporation cause that corporation to be a bank holding company, I think the attractiveness of nonbank banks will fade and there probably won't be any applications. But I think until the issue is resolved it would be best not to approve any.

Senator PROXMIRE. So your answer on the question is that you will or you will not take any action to approve applications for non-

bank banks unless and until your authority to do so is clarified by the Supreme Court? You say you will not approve nonbank banks?

Mr. CLARKE. I will not do that. I think the Comptroller is required to follow the law and there is a conflict as to what the law is right now and until somebody clarifies that, it would be very hard to grant such applications.

Senator PROXMIRE. Very hard. You will not? Can you give me a clear commitment that you will not or you might under some circumstances?

Mr. CLARKE. Well, I guess I would hate to say that under no circumstances without having——

Senator PROXMIRE. I'd hate to have you say that. I would prefer that you gave us an answer one way or the other.

Mr. CLARKE. I understand, but I would hate to find once I get into office that there is some circumstance about which I am not aware which would cause me to have misrepresented something to you. So I guess I would tell you that my inclination is that until the law is clarified I would not approve charters for those banks, but I can't sit here and tell you that there is absolutely no circumstance under which I would not approve a charter for a nonbank banks.

Senator PROXMIRE. Well, I wish I were more reassured. I must say, I can see why you're such a successful lawyer.

OFF-BALANCE SHEET LIABILITIES

Some have suggested that the off-balance sheet liabilities for our larger banks need to be more closely supervised. Many of these contingent liabilities such as standby letters of credit subject the bank to as much risk as a direct loan but without the need for any supporting capital.

Do you think this is a growing problem and, if so, what should be done about it?

Mr. CLARKE. I think it's something that definitely needs to be looked at. There is no question that the use of letters of credit to back various kinds of obligations has become more prevalent as banks look for other ways to make money as part of their market is taken away from them by nonbank competitors. And I think the number of letters of credit and the dollar amount of commitments on those letters of credit, has grown considerably.

Senator PROXMIRE. I understand it exceeds $400 billion.

Mr. CLARKE. I don't know the exact number, but it's a lot and I think it is something that needs to be looked at and some consideration needs to be given to whether those are obligations that also should be included for calculating capital-to-asset ratios.

The other thing to remember, though, is that the banks' loan limits do include commitments under letters of credit. So even though you have a letter of credit outstanding which has not been funded, that is counted toward the statutory limit on the amount of credit that can be extended by a bank to any borrower. So there is a limit in place.

But I certainly would agree with you that the issue of letters of credit needs to be looked at in connection with evaluations of capital adequacy.

Senator PROXMIRE. My time is up.

The CHAIRMAN. Senator Riegle.

Senator RIEGLE. Thank you, Mr. Chairman.

We had occasion to talk the other day and had the opportunity to become acquainted many years ago up in Cambridge, so I welcome you before the committee today.

Let me ask you on the record, how strong do you think the banking system is today?

Mr. CLARKE. Well, I answered that question earlier at the beginning and I hope I give you the same answer that I gave at the beginning.

Senator RIEGLE. That's why we ask it twice, just to check.

Mr. CLARKE. And my answer is that I think the system is sound. I think there is no question that there are some weaknesses in it and there are some examples of weakness of specific financial institutions. There is a lot of attention given to those institutions in the press, but I think overall the system is sound.

Senator RIEGLE. What is the public to make of the fact that the number of bank failures this year will be the highest in a very long time and they continue to read about the problems with nonperforming foreign loans and in fact now a request to even add to those loans, as well as concern about whether the insurance system is solid? Your general response is that you take all those things into account and you think that basically everything is very solid, very well squared away?

Mr. CLARKE. I think even taking all of those things into account that the system is strong. I don't think that means that everybody should just sit back and be very cavalier about it, however. I think there are some problems, including the ones that you just enumerated, that need to be addressed. I think one of the problems with public confidence is the publicity that the troubled banks are receiving and I think that if you stop and think about the number of bank failures this year, which is high, no question about it—a record number—when you look at the total number of banks that exist and compare the failures against the total number of banks against the failures in other industries, there's still a pretty good record. That doesn't mean it shouldn't be improved. That doesn't mean that it's not a cause for concern, but I do think that it all needs to be kept in perspective.

Senator RIEGLE. If the banking system is fundamentally sound, is that another way of saying that they're doing adequately or reasonably well with respect to profitability?

Mr. CLARKE. I do not think they are doing well with respect to profitability. I think that while the system is sound and there is a lot of capital in the system, long term, if something is not done to permit the banks to engage in some of the activities in which their nonbank competitors are engaged and that are eroding away part of their market, it will lead to weakness in the industry.

Senator RIEGLE. Why can't the banks be profitable in the traditional lines of business that they are in and which I assume by the logic that you have just laid out have helped them become strong, if they're strong today. If you're concerned about the profitability eroding, why is it that they're not continuing to be profitable enough in the traditional lines of business, in your view?

EROSION OF BANK'S PROFITABILITY

Mr. CLARKE. Well, first of all, as you know, on the cost side of banking, the money that they get from the investor is much more expensive than it used to be. So on the other side of the equation you have to find some way to lend that money at higher and higher yields. To the extent that some of the good commercial business is taken away from banks by the use of commercial paper just to use an example, which allows the user of money to raise money in the market less expensively than he could by going to a bank and borrowing it, banks that formerly dealt with that high quality borrower are losing the business. That's a very profitable business and it's a very safe business. You're dealing with some of the top quality borrowers in the country in the commercial paper market.

I think that's just one example of where the profitability of the banks is being eroded.

Senator RIEGLE. The thing that I guess I have a hard time understanding—we talked about this some the other day—is that banks have an enormous advantage in the fact that they have access to the credit facilities of the Federal Reserve System. They have the lending power off the base of deposits and assets that they have, they have the Federal insurance deposit guarantees which I think are enormously valuable assets and something that money market funds, for example, don't have, and they are well established. They are plugged into communities all across the country. They have been in the business a long time. They understand it. Presumably there's a level of experience and know-how that accumulates over time.

I am still somewhat at a loss to understand why well established banks in well established lines of business with those inherent advantages can't make money or can't make enough money. I mean, it's just hard for me to understand. I hear you saying that there are additional lines of business that they would like to be in. I'm sure that's true. But you haven't explained to me why they can't make sufficient money in the lines of business they are now in.

Mr. CLARKE. Well, you're correct that they enjoy an advantage in being able to generate deposits with Federal insurance. If you're talking about the smaller community bank, I think that your point is probably well taken. Those banks are able to raise their money in the community because the depositor knows that the deposits are insured. The bank can then lend that money back into the community and generally be profitable. I think if you look across the board at the capital of the smaller community banks you will find that it is generally higher than the capital of the money center banks and some of the other large institutions. The smaller community bank isn't really suffering a loss of market from the investment banking firms, but I think the money center banks are.

I think those banks are where you have the bigger problem.

Senator RIEGLE. If that's where the problem is, then I wonder what should be the nature of a profitable money center bank? Maybe if the answer is expansion of services and moving into new lines of business, it seems to me that perhaps that's part of what's created the problem for the money center banks but my mind is

open on it. I'm looking for an answer. I don't know what the best answer is here.

It seems to me that as big banks are bigger and bigger and moving out and into international lending and a lot of other things, they have in a sense become less and less stable and are the ones that are in the problem category now. It seems to me that your prescription is to accelerate the trend and get into more lines of business is misdirected. I'm wondering if what we've seen so far would suggest that that's really the answer to the problem or maybe that is part of what's caused the problem.

Mr. CLARKE. I just disagree that that's what caused the problem.

Senator RIEGLE. I'm just asking. That's a rhetorical question. I'm interested in your opinion.

Mr. CLARKE. In my opinion, that's not what has caused the problem. As with any other business, you have some banks that are less successful than others in managing the powers that they have or might be given in the future, but because you have a few examples of improperly managed institutions doesn't mean that you should preclude those who are able to manage the additional powers from being able to exercise them.

Senator RIEGLE. Do you think it's necessary to move in and bail out Continental Illinois on the theory that if you don't the shock waves would be so great if a bank of that size were to capsize that it would have a ripple effect that would be just too large to allow to happen? Would it be your view that we have to move in in such situations like that or could we take a failure of 1 of the top 10 banks in the country?

Mr. CLARKE. Senator, I think you have to look at potential bank failures on a case-by-case basis. I was not here when the Continental Illinois problem arose and when the solution was developed. I'm told that the judgment was that it would have been disastrous to let the bank go down and that the solution that was arrived at was the appropriate one.

I would not say, though, that there would not be other circumstances involving a large bank at a particular time which would permit that bank to fail if it had to fail. I think that every effort should be made to keep banks from failing and that applies to big banks and small banks. I think it does not help the system, and does not help public confidence in the system, to have banks fail and I think every effort should be made to keep them from failing. Among the things that should be considered in legislation are alternatives for assisting open banks before they fail.

But there are circumstances—and I've been involved in some of them with clients—where the bank just has to fail. There's nobody around who wants to come help it out and there's just not enough capital available privately to prop it up. Sometimes they just go down.

PROBLEMS OF LARGE BANK FAILURES

Senator RIEGLE. Well, it seems that when you say a case-by-case basis, I think a lot of people would argue that in the case of the 10 largest banks in the country—just to pick a number—that they are now so vast and the implications of a failure in a bank of that size

are so severe that even though you might say in a strict market sense that if the failure is in the offing it ought to be allowed to happen, that the view in maybe all 10 cases would be that it would be too disruptive and that we couldn't really handle that.

If that's so, I'm wondering if maybe we're allowing banking combines to get too big. I mean, do we want to put ourselves in a situation where a single institution, for whatever the reasons—mismanagement, bad judgment, bad timing, whatever—has to go through a type of failure; do we want to put the whole rest of the system in jeopardy because we've allowed a single institution to get that large, perhaps even sort of mismanage its affairs—are we wise to put the whole system at that kind of risk?

Mr. CLARKE. Well, that presupposes that the judgment would be made in all cases that none of those banks would be allowed to fail.

Senator RIEGLE. If a bank the size of Continental Illinois which wasn't the biggest bank in the system can put the whole system in jeopardy, are we smart to leave ourselves in that kind of a posture where we have to in effect set aside the laws to come in with an emergency response because if we don't we're likely to get a collapse? Is that prudent?

Mr. CLARKE. I would hate to see us for that reason restrict the size of financial institutions in the country because I think they do have an obligation to serve the needs of borrowers and I think that you may be—in trying to limit the size—restricting the ability to serve those needs—and I don't know where you would draw the size line.

Senator RIEGLE. I'm not trying to limit the size. I guess I'm trying to establish sort of a prudence test, of safety and soundness. I'm trying to get to a sense of how we take the system out of jeopardy rather than either have it in jeopardy or have it in greater jeopardy. That's what I'm looking for.

Mr. CLARKE. Well, I would look at it on a more positive side and hope that through the use of the examination process and whatever kind of early warning system could be developed we could help keep the banks from getting in a position where you had to worry about that issue.

Senator RIEGLE. But you don't feel we're there yet, do you? Most people I talk to think that you could have Continental Illinois pop up again in the form of another institution of that size today or tomorrow.

Mr. CLARKE. It could very well be. As I said earlier, I'm not privy to any of the confidential information over at the office about the state of any particular bank so I don't know.

Senator RIEGLE. My time is up. I'll come back in the next round.

The CHAIRMAN. Let me just make a comment about Continental Illinois. I understand Senator Riegle's line of questioning and they are valid questions of how we make those decisions, where and when, but the comment I would like to make, however, is that Continental failed. The question that often comes up, should we allow them to fail or not, and the fairness issue brought up by a lot of small banks—well, they were allowed not to fail—Continental failed. Stockholders took over a $1 billion hit. All the management was kicked out and new people were brought in. Continental Illinois was a managed failure.

Interestingly enough—and this gets far away from what Senator Riegle was talking about, but it's a question you're going to be faced with over and over again—the issue of fairness and big versus small banks. Virtually all of the failures that I have observed since I've been chairman of this committee have been handled on an assisted merger basis. They have not failed in the sense that you say they're bankrupt and everybody loses everything, but they have been handled on a case-by-case basis. Both the FDIC and FSLIC saved a great deal of money by not going in and declaring them insolvent and paying off all the depositors below $100,000. I think we need to look at it in that perspective and you're going to have to look at it in that perspective.

So my answer to Senator Riegle's question, getting back to that, is I think we must handle them on a case-by-case basis, take a look at the impact without regard to size or where they are.

POSSIBLE FARM CREDIT SYSTEM BAILOUT

That leads me into another area that is a very definite problem area. You mentioned the overall strength is good and I agree with that, but there are some pockets that are in great trouble and that's the agricultural banks and the Farm Credit System.

Do you have any views on that problem? I don't think there's anybody that disagrees that we don't have a serious problem in many of the agricultural banks in this country and in the Farm Credit System, as evidenced by some asking for a multibillion-dollar bailout of the Farm Credit System. What are your views on that part of the banking industry?

Mr. CLARKE. There is no doubt that the agricultural banks are having problems. They find themselves as lenders to an industry that is having problems. Their situation is not that different, though, than that of the banks who are in an energy area at a time when the energy business is having problems, or who are lenders to the real estate industry in an area where the real estate business is having problems.

It seems to me that you have to keep in perspective the fact that over the course of time these various industries are going to go through ups and downs and bankers are in business to evaluate and sometimes take risks. Hopefully they are very prudent in the kind of risks they take, but sometimes they make loans when they think they're not taking much of a risk and the economy gets away from them.

But I would be very reluctant to provide some kind of specific assistance to the agricultural banks, for example, and not provide it to any other bank. I think once you open that door and start providing special assistance to special industries through the banking system you're really asking for trouble.

I think that in the course of an examination and in the course of administering the enforcement policies in the Comptroller's Office you need to be mindful of the problems in these industries and do everything that can possibly be done to be understanding of their problems and to help them with their problems, but I would be very reluctant to provide some kind of specific assistance.

The CHAIRMAN. Well, I'm reluctant of bailout of any kind for any businesses, but let me play the devil's advocate. Isn't there some difference in comparing energy and agriculture? As I look at some

of the bank loans in the energy field where you see promoters getting in a hot new area and growing rapidly as Penn Square, involving a lot of brokered deposits, a lot of small credit unions and so on. It appears to me to be somewhat different than some small agricultural bank in Nebraska, or Kansas, or in the Midwest that's done nothing in their whole existence but make loans to their friend "Farmer Jones" on the basis of, "Hey, I've known their grandfather before and their great grandfather. You work the land."

Don't you think there's some difference between those hot-rod operators in the energy field and these banks that have always been in their traditional line helping the farmers in their area in their community?

Mr. CLARKE. I think there is a difference, but I think there have been some hot-rod operators, to use your term, in the agriculture business who made loans at a time when there was a lot of speculation in the price of farm land and the price of that land was being bid up and everybody assumed that there would be no tomorrow, just like a lot of people assumed that there would be no tomorrow in the energy industry. I can show you a lot of small banks in Texas that have traditionally made loans to their friends in the energy business thinking that they were making very conservative loans and then the price of oil dropped dramatically.

I think you're always going to have the speculators and the people who have created the problems that contributed to Penn Square and you're always going to have bankers who are doing everything right and evaluating their risks and still get caught in a downturn of an industry. And I do think there's an analogy between the smaller agricultural bank and the smaller energy bank and the smaller real estate bank. A lot of them find themselves in exactly the same spot.

CLOSER SUPERVISION BY QUALIFIED EXAMINERS

The CHAIRMAN. Well, sure, there's some analogy, but I think you've described it even better than I. I don't have much sympathy in any area for the hot-rod or go-go operators, the mismanagement, fraudulent deals that have gone on. You would be amazed if you look at how often fast growth causes problem banks—which gets back to closer supervision and examination and higher pay for examiners, the things that you were mentioning and others have talked about. But I think there is some case to be made for those you described who do everything right, get caught up through no fault of their own, and I guess that gets back to looking at these on a case-by-case basis without being able to make any hard and firm rules on how we should handle troubled institutions.

The more I look at it, that's the only conclusion I can come to, that there are different circumstances and regulators and Congress ought to look at them on a case-by-case basis, see the reasons for those problems and it's not possible to have a uniform mold for how we handle bank failures or problems.

Senator Sasser.

Senator SASSER. Thank you, Mr. Chairman.

I welcome you before the committee this morning, Mr. Clarke.

In my native State of Tennessee we have a great number of small independent banks. We've had real problems in our area with the failure of small independent banks, some associated with the economy, some associated with bad banking practices.

What, in your view, is the future of small independent banks in this country?

Mr. CLARKE. I think there's a great future for small independent banks. As you may know, I've represented a number of small independent banks professionally and have always maintained in talking to my clients that as long as a bank in a community is willing to take an interest in its customers, pay attention to their needs, give them some personal service, and be a real banker to the customer, that bank will succeed.

Senator SASSER. Well, is it your view that small independent banks can survive in this era of deregulation and what will soon be an era of interstate banking—in fact, is, already an era of de facto interstate banking.

Mr. CLARKE. My opinion, Senator, is that they can survive. When interstate banking is here in whatever form, either the form that it's in now or on a more formalized basis at some point in the future, I do not think there's going to be a great interest on the part of the larger, more acquisitive bank holding companies in a lot of the smaller community banks. There may be ultimately, but I think initially there will not be. And even if there is an interest on the part of those holding companies in going into the smaller communities, I think history has shown that the small bank that looks after its business and takes care of its customers will still prosper.

Senator SASSER. Well, from the standpoint of a philosophical view, Mr. Clarke, would you favor the survival of small independent banks or would you come down on the side of larger banks more centrally controlled as being more efficient?

Mr. CLARKE. I would absolutely favor the survival of the smaller bank.

Senator SASSER. I'm delighted to hear that.

Mr. Chairman, I don't have any more questions of Mr. Clarke. Thank you.

The CHAIRMAN. Thank you, Senator Sasser.

Senator Proxmire.

Senator PROXMIRE. Thank you, Mr. Chairman.

Mr. Chairman, I think you're exactly right on what you said about Continental Bank. We have a strange view here and I think most people in the country do about what happens when a firm goes into bankruptcy. Everything closes down is the view of most people. The smokestacks stop smoking smoke and the people don't go to work and it's abandoned and it falls into rust and decay.

We've had testimony from experts at Harvard and elsewhere who have told us that this isn't what happens at all in bankruptcies, not just in banking but elsewhere.

What happens is that the plant is taken over and goes ahead and functions. The stockholders take a terrible beating. Management is kicked out and then the enterprise moves ahead. That's exactly what happened, precisely what happened in the Continental Illinois case.

The stockholders took a great big bath and, of course, the management is gone. There's new management there now. I think if people realized that, if they realize it's not a matter of babying or favoring the big banks at the expense of the small banks, the fact is that if you have bad management and stockholders are fundamentally, basically responsible for it, they're going to have to suffer and the management itself is going to have to suffer.

Nevertheless, I would like to get your reaction to the fact that you've been much more circumspect than your predecessor. Todd Conover testified before a House committee I understand that the top 11 banks in this country would never be allowed to fail. From what you've told us this morning, you don't agree with Mr. Conover and you think that there are circumstances in which 1 of the top 11 banks would be allowed to fail. Is that right?

Mr. CLARKE. Based on the information that I have available to me right now, I would certainly not want to make the statement that the top 11 banks or the top 6 banks or the top 25 banks—whatever the number is—would never fail.

Senator PROXMIRE. So you're establishing a new policy then in the Office of the Comptroller and it's a welcome policy.

SALE OF LATIN AMERICAN DEBT IN SECONDARY MARKETS

Mr. Clarke, on July 17 the New York Times carried an article entitled "The Market for Latin Debt," in which it stated that many banks with Latin American debts are finding relief by selling them in a secondary market. The article noted that several of the big money center banks have refused to discuss this development. It then said:

> One reason for the reticence of the bankers and brokers is that the transactions provide tangible evidence that many Third World loans are not worth their face value and the big banks fear that the regulators would cite that as a reason to require loan loss reserves.

The article goes on to note that loans to Venezuela are trading at 90 percent of face value, Argentina at 70 cents, and Bolivia only 20 cents on the dollar.

Do you think a development of a secondary market in Latin debt is a favorable development? Do you think it provides further evidence that loans to the various Latin debtor countries need to have further loan loss reserves put against them?

Mr. CLARKE. I don't think the existence of a secondary market in Latin debt or any other kind of debt is a basis on which examiners should make an evaulation of the adequacy of reserves. It seems to me that the way that is being done right now, as I understand the way it's being done, is the proper way to do it. The countries are evaluated on a case-by-case basis and decisions are made as to the amount of reserves that are required in the banks that hold that debt.

I think there are now five countries that have been identified as requiring specific reserves.

But I would not want to rely on a secondary market as guidance for the soundness of any country's loans.

Senator PROXMIRE. Now I note that some banks have asked that the World Bank or the Federal Government should guarantee any

additional money they put into the debtor countries under the supposition they would be helping to prevent a collapse of the world's financial system.

Would you favor such a guarantee by either the World Bank or the Federal Government?

Mr. CLARKE. Senator, I would not favor guarantees by the Federal Government because we all know where those guarantees come from—they come right out of the taxpayers' pocket and once you start a guarantee for foreign debt why shouldn't you guarantee farm debt or why not—getting back to the issue we discussed earlier—the energy loans or the real estate loans? I don't see any reason to single out foreign loans.

Senator PROXMIRE. How about a guarantee by the World Bank, would you favor that?

Mr. CLARKE. I think that you run into a lot of the same problems when you look at where the funding for the World Bank comes from.

Senator PROXMIRE. You take the same position as your Secretary of the Treasury, Mr. Baker, as I understand.

As Comptroller of the Currency, one of your chief responsibilities will be to look after the safety and soundness of our national banking system.

In early October, Secretary of the Treasury Baker announced a new plan to deal with the debt problem in the Third World. One key element of his new three-point plan was to persuade the commercial banks to put $20 billion more in new money into the debtor nations over the next 3 years.

Some banks have complained that the banking regulators' recent emphasis on increasing the capital levels of our banks will make it more difficult for them to take part in Secretary Baker's new plan.

If confirmed, will you support recent efforts made by the Office of the Comptroller and other bank regulators to have the banks increase their capital levels even in the face of complaints that they make that this is inconsistent with their putting more money into the debtor nations?

Mr. CLARKE. Senator, are you asking whether I would support increasing reserves against loans from particular——

Senator PROXMIRE. No. Capital ratio.

Mr. CLARKE. Just the overall capital ratio of a bank?

Senator PROXMIRE. Yes, sir.

CAPITAL-TO-ASSET RATIO

Mr. CLARKE. My feeling about capital ratios is that you really need to stop and think what you're trying to accomplish with the capital-to-asset ratio. There is no question that capital provides a buffer between loan losses and insolvency of a bank. But at the same time, you need to look at the issue of profitability, and to the extent that high-capital levels are required, that can have a severe impact on the ability of banks to compete against their nonbank competitors that are not regulated and don't have the high-capital levels.

So rather than have an across-the-board increase in capital, I would be much more inclined to focus on the individual banks and

determine on a case-by-case basis, which the Office has the power to do, whether the capital in a particular bank is adequate.

Senator PROXMIRE. Case by case is always an attractive response, but it just seems to me that as a matter of principle if you're going to play fair with all these institutions that a specific capital ratio has some appeal. Arthur Burns put it at 8 percent, others put it at 10 percent—that's not a very high-capital ratio in any kind of other business, and the banking business, as you know, is becoming increasingly risky. It seems to me that a capital ratio of 8 or 10 percent would be reasonable. Sure, it would have some effect on profitability to some extent and competitiveness to a modest extent, but to a very limited extent. After all, that capital can still be put to work in Treasury obligations and other obligations that are risk free. It's not as if you take that 8 or 10 percent and it's just sitting there idle not bringing in revenue. It's working.

So I can't for the life of me understand why there's such resistance to having a capital ratio that would provide safety. In the Continental case, if they had had the same ratio in 1985 as they had in 1965, there wouldn't have been any problem, at least no problem of bankruptcy. They had a 10-percent ratio in 1965 and they had a 5-percent ratio in 1985, and 10 percent would have been adequate.

Mr. CLARKE. I understand what you're saying, Senator, but there is a strong argument supported by lots of analyses, some of which I think have been presented before this committee, that——

Senator PROXMIRE. Not much has been. They always say that. They always make the statement you've made which is a thoughtful and perhaps a proper statement, but I've never seen it documented. I've never seen people come before us and say, "Now look, here is why, if we have to have an 8-percent, 9-percent, 10-percent capital ratio, we aren't profitable, we aren't competitive with other institutions."

Will you try for the record to put something like that together or have some of your people do that? It would be very helpful to me.

Mr. CLARKE. I would certainly be happy to have that done, although it may well be something that the industry should do.

Senator PROXMIRE. I have one other question. Some people are suggesting bank deregulation has gone too far and we need to think about reregulation. In particular, they say that given the present conditions of the banks this is no time to be considering new powers for banks or bank holding companies.

I'd like to get your view on that and has deregulation run its course or do you support last year's administration bill allowing bank holding companies to engage in a wide variety of new financial services, including securities, real estate, and insurance?

Mr. CLARKE. As I said earlier, I support the idea of expanding the powers that are available to banks, recognizing that such expansion should all be done with a continual concern for safety and soundness. But I believe that there are ways that you can——

Senator PROXMIRE. Let me just interrupt to say so do I. I think almost everybody on the committee supports it to some extent and I supported the bill that Senator Garn had last year. But I went further than that and asked if you supported them to engage in a wide variety of new financial services, including securities, real

estate and insurance, which generally were not included in the bill we had last year. We didn't give the banks insurance or real estate.

Mr. CLARKE. Those were not in the 1984 bill, is that correct?

Senator PROXMIRE. That's my understanding.

Mr. CLARKE. That was my understanding also. On the securities side, I would certainly support a broader range of securities activities than are presently permitted. I'm not certain that I would be for allowing banks or bank holding companies at this point to engage in the firm underwriting of equity securities.

Senator PROXMIRE. You would let the banks get into insurance?

Mr. CLARKE. On the insurance side, it seems to me that a strong argument can be made that to the extent that the insurance is related to extensions of credit that banks or at least bank holding companies should be allowed to participate in that kind of activity. The reason for that is that you're providing the consumer with considerable——

Senator PROXMIRE. It's my understanding that it's already the law with credit life insurance.

Mr. CLARKE. It is with credit life and accident and health. The sale of fire and casualty insurance is not permitted at present.

Senator PROXMIRE. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Riegle.

Senator RIEGLE. Mr. Chairman, I don't know if we've taken account yet earlier in the hearing of the fact that it's Senator Proxmire's birthday today.

Senator PROXMIRE. Yesterday.

Senator RIEGLE. Well, the New York Times is off by 1 day then because they're saying—they dated the story yesterday.

The CHAIRMAN. The New York Times is usually wrong. [Laughter.]

Senator RIEGLE. In any event, yesterday was your birthday, but I think we ought to take account of it whether it was yesterday or tomorrow because it's a significant event. I want to draw the attention of the committee and others here to a question-and-answer article about Senator Proxmire in today's New York Times and just would not want to let this event pass without noting that I don't think there's anybody in the Senate more diligent than the Senator from Wisconsin in terms of how he approaches the job, how he feels about the issues, the job that he does, the example that he sets, and I think he lifts the stature of the Senate and is admired by all of his colleagues. So I hope there will be many more birthdays that are celebrated by him here among us.

Senator PROXMIRE. Senator Riegle, I want to thank you very much and congratulate you. That's one of the finest statements you've ever made. [Laughter.]

Senator RIEGLE. I thought you'd like it.

The CHAIRMAN. If the Senator would yield for 1 minute, if Senator Proxmire's birthday was yesterday, then he shares that birthday with my daughter. There is a little difference in the age of Senator Proxmire and my daughter——

Senator RIEGLE. Not much.

The CHAIRMAN. Well, not too much. This particular one, one of my three daughers, was 23 yesterday, so a little bit of difference.

Senator RIEGLE. Between 23 and 39.

The CHAIRMAN. Only 16 years difference.

Senator RIEGLE. Mr. Clarke, I want to follow on something that Senator Proxmire was asking about and that is, you've got the administration now pressing the banking system to make additional loans to Third World debtor nations and as a regulator of the banks, if you're confirmed, you have to, I think, look first to the prudence and soundness of the banking system, and the pressure is now public. It's clear that's the thrust of the administration's desire.

And as the pressure is applied on the banks to make additional foreign loans to less developed countries, are you going to be part of the effort to nudge banks in that direction or are you going to be a neutral party or might you even resist that on the theory that maybe the foreign lending in the less developed countries in the ones that are in the worst shape maybe is about as much as we ought to have at this point from the point of view of the soundness of our own banking system?

Mr. CLARKE. Well, Senator, I think that I would probably be neutral on that point. The Office, as I indicated earlier, has a system in place for evaluating foreign credits. I'm not sure what that system is because I haven't been there and have not had an opportunity to see how it operates, but it would seem to me that it would be inappropriate for the agency that regulates the banks to be encouraging the banks to get into any particular kind of lending activity. On the other hand, it would be imprudent for that agency to be discouraging a bank from getting into any particular area except perhaps as the agency has done with respect to concentrations of credit. I think there have been warnings issued to banks from time to time about concentrating too many of their assets in one particular industry or type.

GOVERNMENT PRESSURE FOR FOREIGN LOANS

Senator RIEGLE. If there is an effort made by the administration to pressure the banking system to come up with another $20 billion or so, which would, in a sense, be apportioned through the banking system with the bigger banks putting more in and the smaller banks putting less in, and if some of the banks were to say: "Look, we don't want to do it, even if that is the call from the administration; as we look at it, we don't want to make additional loans there; we don't think it's sound within our mix of lending and so forth," and the heat is on for them to participate and they don't want to participate, will you continue to take a neutral posture? Will you defend them if they want to opt out and not get into additional lending arrangements?

Mr. CLARKE. I can't imagine ever being called upon to have to do that.

Senator RIEGLE. Well, perhaps you won't, but if you were, would it be your position then to say that those banks, if they don't want to participate, should have every right not to participate?

Mr. CLARKE. Well, I suppose so. But as I say, I just can't imagine anybody suggesting that the Comptroller's Office should actively influence that issue one way or the other.

Senator RIEGLE. Well, I think you might very well have something to say about it if there's a full press to try to get additional loans of these magnitudes made to different countries, and some of the smaller banks, as they are now indicating, decide—the regional banks and some of the others—that they don't want to be part of it. I would think that they might very well, if their argument rests on safety and soundness, look to you to sustain their argument, to sustain at least their right to dissent and not be part of the package that they don't want to be part of.

Mr. CLARKE. I think they ought to make their own judgment about that, Senator.

Senator RIEGLE. Well, exactly. But if somebody has got a gun to your head, it affects your judgment. I've been through some of these myself before when a consortium of banks has been asked to go along with certain things and sometimes they like them and sometimes they don't and sometimes some of the participants are brought along kicking and screaming. But it seems to me additional foreign lending to Third World countries now does pose potentially a safety and soundness issue both in the aggregate and for individual banks, and so if some are asked to participate by other parts of our Government and they decide they don't want to, perhaps for reasons of safety and soundness, it seems to me they might very well come to you and say, "Look, we're being pressured to do this and we really don't want to do it. We don't think it's the right thing to do." I'm just wondering at that point do you slip out the side door or do you stand with the banks in terms of their ability to exercise their own independent judgment? What do you do at that point?

Mr. CLARKE. Well, I would just look to them to exercise their own independent judgment.

Senator RIEGLE. But if they come to you saying that they don't feel they're being given a chance to do that, would you then be inclined to stand up and say they ought to be able to exercise their own independent judgment and if somebody else is pressuring them, you would tell them to back off?

Mr. CLARKE. I certainly would tell them—them or anybody else—that they should be entitled to exercise their own independent judgment.

Senator RIEGLE. Am I correct in assuming you would take their side if somebody was pressuring them and they didn't want to do it, that you would stand with them and say, "If they don't want to do it, they don't have to do it?"

Mr. CLARKE. I would take their side to the extent that I would say that they have the right to make their own independent judgment about whether to extend additional credit.

Senator RIEGLE. Well, I think that's a little bit evasive because I think if they're being pressured by part of the system of Government to do something that in their own business judgment they ought not to do, they may need to appeal to another arm of Government that is neutral, if you will, or independent in its judgment to give them some countervailing strength.

If they ask you for that kind of strength and you basically say, "Look, I can't help you on that but you ought to exercise your own independent judgment," that's not a very strong response.

Mr. CLARKE. No, no. You asked me if I would say to the Government, if the Government is pressuring them to make those loans, do I think they should have the right to make their own independent judgment about that and the answer to that is, yes, I think they should. I would say that to the banks and I would say that to anybody else.

I'm not trying to avoid the question. I'm just saying that I think ultimately the banks have to make their independent judgment and I think they ought to have the right to make that judgment.

Senator RIEGLE. Then I guess I could draw from that that you would certainly not be a part of any concerted Government effort to pressure banks into making loans that they didn't want to make.

Mr. CLARKE. I absolutely would not.

Senator RIEGLE. Now some people have suggested that the FDIC and the FSLIC be merged into a single insurance fund that might be a more solid fund. I have my own view on that which I'll state in a moment, but what is your view on combining the two insurance systems?

Mr. CLARKE. I do not think the two insurance funds should be combined.

Senator RIEGLE. Well, I share that view and I'm pleased to hear you say it. There are some that think that's a wise idea.

MAINTAIN A STRONG S&L INDUSTRY

As a follow-on to that, do you think it's important that we maintain a strong savings and loan industry in this country?

Mr. CLARKE. I think it's important that we maintain a strong savings and loan industry in this country as long as that industry is carrying out the mission for which it was originally intended, and that is providing funding for housing loans.

I think to the extent that that industry becomes more bank-like and is allowed to conduct itself in the same manner as banks and is given much wider latitude than are banks or bank holding companies, we need to stop and think if that's really where we want to be heading.

Senator RIEGLE. I agree with you. I think their central function is home mortgage lending and it ought to continue to be and I, for one, am not enthusiastic about watering down that central mission and stretching it out. I think it's caused some problems, the fact that that has happened.

I'm wondering, Senator Proxmire, when you asked the question on insurance powers and real estate powers—I'm trying to recall—I was interrupted at that time—whether we got definitive responses on both issues in terms of new powers for banks.

Maybe, Mr. Clarke, you recall in terms of whether or not you would favor moving banks into the insurance business, it seemed to me the discussion sort of ended there. Did we cover real estate? If not, would your view be that they ought to be getting also at some point in to the real estate business?

Mr. CLARKE. I think there are circumstances under which bank holding companies could be allowed to participate in the real estate business and make equity investments in real estate to the same

extent that savings and loan holding companies have been allowed to. I would hasten to say that it can't be done on a wide-open basis without some standards and some controls. I think you can look at what's happened in the savings and loan industry and see where some tremendous problems have resulted from a wide-open, relatively unrestricted system of regulation.

So I would preface my whole answer to the bank powers question with the overlay that safety and soundness should be first and foremost and if there is a way that real estate investments can be properly structured and the insured institutions can be properly shielded, then I think there is a place for real estate investment activity.

Senator RIEGLE. I'm just going to ask one other thing. You may have covered this at the very outset or if you made an opening statement prior to the time I arrived.

The view of some is that we ought to go to nationwide banking and we ought to allow a consolidation to occur however the market would shape that consolidation and we ought to really take down geographic barriers.

There are others who say, no, if we're going to move in that direction, we ought to do it on a regional basis first and go through regional consolidations and amalgamations and then eventually over a longer period of time graduate to some kind of nationwide banking system.

There are some who would like not even to do that, who think the current system, the traditional system, has worked well and they would like to slow the whole thing down.

As between the first two, between going on a fairly rapid basis to a kind of nationwide banking system without regard to geographic lines versus going through a period of regional banking consolidation perhaps leading to nationwide banking, which of those two do you tend to favor or do you have a view on it?

INTERSTATE BANKING IS ALREADY A REALITY

Mr. CLARKE. Well, I think you have to approach it as the chairman was saying earlier, sometimes you would like to do things on a much more grandiose basis but the realities of the world are that you can't get there, so you have to do something a little bit less. It seems to me that interstate banking already exists. Just look at the Yellow Pages of the Houston phone directory. Every major financial institution in the United States and practically every major foreign financial institution is represented with an office there. So you have interstate banking already in large part with certain restrictions, as you know.

I think that, as I said to Senator Sasser in my answer to his question, there is always going to be room for small independent banks to serve their respective communities. I don't think interstate banking will cause those banks to go out of existence. I think that if people become used to the idea they probably will not be as frightened about the notion of interstate banking and the fact that the regional compacts are being formed. The fact that States have the opportunity to make their own decisions will I think ultimately lead to a greater feeling of comfort on the part of lots of bankers,

and I think we will see down the road a lot less resistance to the idea of wide-open interstate banking.

Consequently, I tend to favor the regional compacts which are taking place.

Senator RIEGLE. Just one final thing and I'll be very quick about it. Do you envision a point down the road 10, 15, 20 years, when the banking system in this country is nationwide with perhaps 5, 6, or 7 dominant financial institutions who offer a variety of services. Do you think this will constitute the banking system in the United States in the future?

There are some who not only foresee that but who think that's a plus and we ought to get there sooner rather than later. Would you foresee that as an ultimate outcome here?

Mr. CLARKE. I do not foresee that. First of all, there are antitrust considerations that come into play. I would be amazed if you ever reached the point where you have that few banks and that much of the banking resources concentrated.

Senator RIEGLE. Well, we have it in almost every other field I might say. We have it in steel. We have it in automobiles. We have it in computers. Consolidations occur over a period of time and there are very few industries where you have more than five or six or seven major players as the industries mature. I'm just wondering why you think that that won't happen in banking if you go the nationwide banking route?

Mr. CLARKE. Well, for one thing, I think we can prevent it if we don't want to see that happen. I don't think you have to foreclose interstate banking to prevent concentrations, and I think you can look at the examples of States such as California that have had for many years statewide branch banking and, yes, you do have some very large banks and institutions but you also have a very healthy independent banking system that's working right along beside them and being very successful.

Senator RIEGLE. My time is up.

The CHAIRMAN. Mr. Clarke, before I turn to Senator Dodd, I have a statement that I would include in the record by Senator David Boren, very strongly in support of your nomination for this position.

[Statement of Senator David Boren follows:]

STATEMENT BY SENATOR DAVID L. BOREN

Senator BOREN. Mr. Chairman, I am pleased to add my support to the nomination of Mr. Robert L. Clarke as our new Comptroller of the Currency. Mr. Clarke brings a great deal of practical experience to the very important post in our Government at a most crucial time. Of course, I also take pride in the fact that he is a native of my home State.

As chief examiner and administrator of all nationally chartered banks, the position of Comptroller in this sensitive period for our financial environment calls for a person to adhere to established policy and intent of Congress. It also calls for flexibility in utilizing responsible discretion, and creativity and initiative in advising the Congress of needed changes in the law. Above all, we need in this position a person of good solid judgment who will make commonsense decisions.

In light of Mr. Clarke's excellent educational background and his experience in dealing with complex banking issues, I enthusiastically urge the committee's quick consideration of the President's wise nomination of Mr. Robert L. Clarke.

I thank the chairman, the committee, and especially Mr. Clarke for his willingness to serve his country in this vital position.

The CHAIRMAN. Also, if you will forgive me for having to leave, I must be over in the Capitol for a meeting at 11 o'clock, so I'm going to turn the chair over to a very experienced former chairman, Senator Proxmire, to conclude the hearing. I look forward to working with you.

Mr. CLARKE. Thank you very much.

Senator PROXMIRE. Senator Dodd.

Senator DODD. Thank you, Mr. Chairman.

Mr. Clarke, congratulations on your nomination. I had the pleasure of spending some time with you the other day and I had the pleasure of listening to my colleague, Senator Riegle, really cover an awful lot of ground and I gather Senator Proxmire did. Let me add, Bill, my congratulations on your birthday as well. There's a very fine interview in the New York Times today. I represent Senator Proxmire's grandchildren. I'm not sure how well. I'm not sure I want to test their preferences but they live in the town where my great-great-grandfather came and settled when he came to this country.

Senator PROXMIRE. When they get old enough, they'll vote for you. They'd better.

Senator DODD. That's right. I know the one to talk to if they don't.

Let me just pick up the second to last point Senator Riegle mentioned and just to kind of cover the waterfront, and if you have already, I apologize, but I think Senator Proxmire asked you about insurance. Senator Riegle asked you about real estate. Let's complete the circle in terms of expanded powers, securities industries and the like.

Would you draw some parameters for us? You have already commented on insurance. You did in a way on real estate, defining it as you did with obvious safeguards and the like. Would you expand and continue that discussion and define what the parameters would be in terms of expanded powers?

Mr. CLARKE. In the securities industry?

Senator DODD. Yes, and others, rather than just trying to go down the whole list.

Mr. CLARKE. Well, the question that was originally asked was with respect to those three powers—securities, real estate, and insurance. And I did, I think, address those three.

As far as any other powers, I don't have any specifically in mind. I do support the Treasury Department's notion that if the power to determine those other industries were turned over to the Fed as it principally is now, but with some modification as to what the definition is, I think that would be an entirely satisfactory way to do it because I know that the Fed is not going to be aggressive in granting bank holding companies or banks other powers without looking very closely at the safety and soundness issue.

Senator DODD. I apologize. I did not know that you had covered the securities question.

Mr. CLARKE. Let me go back over that. What I had said was that I would be for expanding the opportunities for banks to participate in securities activities but I would not go so far as to say at this point that they should——

Senator PROXMIRE. Would the Senator yield for just a minute. I'm going to run to the floor and vote and come right back so we can keep this going.

Senator DODD. Fine. I'll go right ahead.

Senator PROXMIRE. You could turn to Alan unless you want to go vote.

Senator DIXON. I'd better go vote too.

Senator DODD. Let me ask you about—do you want to complete that answer? I apologize.

Mr. CLARKE. I can't remember where I stopped. I would not go so far as to support at this point firm commitment underwritings of equity securities, but I do think that there are areas such as mutual funds and commercial paper and things of that kind where banks could very appropriately be given powers and that much of that activity is really not risky and to the extent it is perceived to be risky, I think it can be insulated from the insured institution.

GRAMM-RUDMAN PROPOSAL

Senator DODD. I wonder if you might comment—and I asked you about this in our own meeting, but there was again a lengthy piece today in the New York Times talking about the possibility of a veto of this Gramm-Rudman proposal. Obviously mounting deficits would have a profound impact on the banking industry, the possibility of higher interest rates obviously could have a very strong impact. I wonder if you might comment—and I realize you don't hold the position yet, but I presume you've had an opportunity to at least become somewhat familiar with the proposal, maybe more than most. I notice you contributed to Phil Gramm's campaign, so maybe you can really give us the inside word.

Mr. CLARKE. That's why he came over and introduced me this morning. [Laughter.]

Senator DODD. At least he pays his debts. I wonder if you might just comment on them and also look at it from this perspective—everyone has sort of looked at this in terms of its effectiveness on reducing deficits. What would be the effect if we were to move too quickly in the reduction of deficits? I don't know many people who have commented on that side of this. No one is anticipating it. The criticism is it won't work. And addressing the question, let's assume for a second it really works. In fact, it works better and faster than some might anticipate. What do you think the dangers and pitfalls might be? I should add, I'm a cosponsor of the Gramm-Rudman proposition so I don't raise this as a critic of the idea but I, like many, feel that we have moved rather quickly on this notion and I'm curious as to what observations you might have about the implications.

Mr. CLARKE. Well, first of all, whatever observations I have are going to be strictly in the nature of playing amateur economist because I really have not——

Senator DODD. Don't feel guilty about that around here, that's not new.

Mr. CLARKE. I find it hard to conceive that the deficit would be reduced more quickly, as I understand the mechanisms of the bill, but certainly I would assume there are some negative implications

to its working too quickly. I suppose it could have a serious impact on various programs that would not be foreseen.

Senator DODD. Well, there is talk—just to bring you up to date a bit, the House bill talked about a target figure of somewhere in the neighborhood of $160 billion. The Senate was talking roughly in the area of $180 billion. And there's every reason to believe that the original Budget Committee target figures of $172 billion might be where the compromise is reached. That would be a hard figure to reach. What happens with that? What are the broader economic implications, aside from the impact on specific programs that you might envision were we to have a rapid reduction? Do you see any at all?

Mr. CLARKE. Senator, I just don't really have a basis for providing you an intelligent answer to that question. I understand the broad workings of the bill, I think, but I have not looked into any of the budgetary impacts that it would have.

Senator DODD. Let me move to the tax bill, something you may be a bit more familiar with because there are a number of provisions in there that would impact the banking industry. One is the tax that would occur on the loan loss reserve accounts. The administration would like to tax those funds.

In light of the fragility of the banking industry and also the demands for larger percentages of capital on hand to insulate against problems, don't we find the administration working at cross-purposes a bit here and what is your view of that particular proposition?

Mr. CLARKE. First of all, as I understand the tax bill as it relates to the loan loss reserve in its present form and that's moved around all over the place—but as I understand it right now, it's back to where it started and that is, it wouldn't deprive the deduction for all of the loan loss reserve. It would permit deduction of just the part that is actually charged off. In other words, banks would not be able to deduct the entire amount that they set aside for their reserve in a particular year, but they would be able to deduct the part that is charged against their reserve during a particular year.

Senator DODD. I believe the size of the bank is also——

Mr. CLARKE. There is a size test.

Senator DODD. $500 million?

Mr. CLARKE. I can't remember what it is, but there is a cutoff below which it does not apply. There is no question that the administration would seem to be working at cross-purposes with the banks, but by the same token, the administration could be seen as working at cross-purposes with the real estate industry which would be deprived of certain attractive deductions and——

Senator DODD. No question about that.

Mr. CLARKE. And the heavy equipment industry which would be deprived of its investment tax credit and a variety of things. It just seems to me that if you are going to achieve tax reform, everybody is going to have to hurt a little bit, at least people who have become used to tax benefits that are in the present law. And the banks would be hurt in that respect, I concur. But if you really are going to achieve tax reform you're going to have to do it across the board and it's going to impact the banks as well as everybody else.

Senator DODD. What I gather then from what you understand from the Ways and Means Committee what they have done is satisfactory to you, it sounds like a reasonable position?

Mr. CLARKE. I think it's a reasonable position. I think that obviously the industry and obviously I, as a regulator, would prefer to have any kind of mechanism in place that enhances the ability of banks to accumulate capital. But I don't object to the notion that if we're going to have tax reform, everybody is going to be impacted and everybody is just going to have to grit their teeth and absorb some of the hurt.

Senator DODD. I'm going to at this point recess this hearing. Senator Proxmire does have a couple more questions for you and I presume Senator Dixon will be coming back as well. I've got about 3 minutes to make the vote. I thank you for the responses to the questions and I wish you well. We look forward to working with you.

Mr. CLARKE. Thank you very much.

[Recess.]

Senator PROXMIRE. Mr. Clarke, there's only one area that concerns me and concerns me very greatly and it has for a long time. Other Senators asked about it. I asked you very little about it. But I'd like to ask you about it now.

I think the development of our banking industry has reached a crossroads. We have the best capital markets in the world. We are the only major country on Earth that has the kind of diversified banking, plural banking that we have. We have 11,000 independent banking institutions located in virtually every city in the country, almost every village and town for that matter, and it's unique.

No other country has it. Great Britain, Canada, the countries on the Continent of Europe, Japan, and so forth all have 5 or 6 big banks that do 90 to 95 percent of the business. That's no accident.

CONSOLIDATION CHANGING THE CHARACTER OF BANKING

That is what happens it seems to me when you don't have some kind of restrictions on consolidation and on banking consolidation particularly. We've seen it happen in our State and I'm sure it's happened elsewhere lately with holding companies gobbling up smaller banks. You've cited California as an example of a State that's permitted branch banking and it's a very large State, the largest in the Union by far. You say the system is functioning well there.

I challenge that position in California and elsewhere. I think that there's a tendency on the part of the stockholders of banks to sell out to big conglomerates when they come along or a big bank when it comes along to buy them. It's advantageous to buy an established bank. I agree that a big bank isn't going to go in and be able to compete in a community against a small bank that has effective social roots there. It won't have to do that. It can buy out the stockholders holdings and therefore take over the banks and diminish the number.

As a matter of fact, the number of banks has been diminishing lately. And then you say, well, we can rely on antitrust. Antitrust has been a very, very feeble reed. I don't have any faith that we're

going to be able to resist through antitrust. Senator Riegle was right when he referred to the automobile industry and the other industries that are consolidated, mature industries, and I'm very concerned that that could happen here.

As I say, it's been the pattern in other countries and one more point I'd like to make in this connection—I had a printing company before I came to the Senate. I owned a printing company in a small town. We had a bank in that town that was locally owned. That bank specialized in our business. They were deeply concerned with the community. The stock was held by 104 people who lived in Waterloo, WI, a little town where we had our printing company. They made themselves expert in the area. They gave us superlative advice. When we needed more capital we could go to another bank a little bigger that was 4 miles away. We could go to Madison which was only 15 miles away. Our position was typical of many business people in the country and I think the advantage of the locally owned bank is that the owners of the bank, usually the managers, know the community. They know the people. They don't rely just on an operating statement and a balance sheet. They know the character of the people. They've gone to school with them. They've grown up with them. And I think that's a very wholesome relationship.

I'm afraid that that ability to be able to judge a loan on the basis of character and the kind of people who are running a particular business is an invaluable quality that we're going to lose. I can just see what's going to happen. People will come into a small town, run a bank for 6 or 8 months, and then move on to some bigger area and that has some advantages of course but it has a lot of disadvantages because they won't know the community and won't have the commitment to the community and they will have a tendency to walk away from the community if for any reason they feel they should.

So I'm very concerned with that change in banking. It's tearing apart our people in Wisconsin. The Independent Bankers Association strongly opposes regional banking because they know it's going to lead to national banking. The bankers association associated with the ABA has shifted their position. They were opposed to it and now they've changed.

But I can see that coming up and I'm very concerned. Because you're occupying a position as Comptroller of the Currency, the principal regulator for national banks in this country, many of which are small independent banks, I'd be interested to get a little further response from you in response to what I've just said.

Mr. CLARKE. All right, sir, I'd be glad to. Let me just say that I share your concern about the existence of the smaller banks in the small communities. I couldn't agree with you more about the desirability for having communities served by independent community-owned banks. I served on the board of an independent community-owned bank and I feel very strongly that there is a place for those banks and I think those banks will survive and do well whether or not you have some of the limitations on interstate operations.

You and I just have a different impression about what the result of that would be. I don't think you will see the disappearance of the small community-owned bank.

Senator PROXMIRE. Why do we have the situation in other countries? Every other country has a pattern in which you will have some small banks but they're insignificant in terms of their part of the business. In this country our 10 biggest banks do about 30 percent of the business and the other 70 percent is distributed among all the banks in the country.

Why is it that this is the one country—where banking is decentralized? I believe it is due to our branching laws. Until recently, we haven't permitted any across State branching. We have lately with regional banks, New England, and it's beginning to grow and develop. But until now, we have had laws that have prevented regional banking. That's changed. We're about to go perhaps to national banking.

Why can't we expect that the same kind of situation that occurred in other countries will develop here?

Mr. CLARKE. I can't tell you why it has occurred in other countries. There may be a variety of factors. There may be less willingness to charter new banks for investor groups. There may be an inability to put together entrepreneurial groups who want to go out and start their own banks. I really don't know why that pattern exists in other countries, but I do think that you can draw analogies to States where you have statewide branching, as I did earlier with California. I think there are others, in Texas, for example, where we've had statewide bank holding companies, you have one of the healthiest independent banking industries in the country.

Senator PROXMIRE. Well, you take the situation in California and you find the big bank, Bank of America, is not in such great shape.

Mr. CLARKE. That's right.

Senator PROXMIRE. They've branched out all over the State and they're in trouble.

Mr. CLARKE. But it hasn't resulted in the disappearance of the independent bank and in the Houston area, for example, there are some 260 banks, most of which are independent and are substantial.

Senator PROXMIRE. I understand the community banks in California have only 3 percent of the market. They may be healthy but that's a pretty small proportion compared to a much higher percentage nationwide, about seven or eight times as high nationwide.

Mr. CLARKE. Well, I don't have the data at hand to dispute you on that, but let me just say that I share your concern and if I believed that expansion of banking activity across State lines would result in the disappearance of the community bank I would be opposed to it.

Senator PROXMIRE. All right. Thank you very much, sir, and thank you so much for your patience.

I apologize. I've just been told by the staff that Senator Cranston is on his way back and he's very anxious to have a couple of shots at you.

Mr. CLARKE. Senator Dixon was here earlier. I wonder if he's coming back.

Senator PROXMIRE. Senator Dixon is not coming back. I talked to him on the way. He won't be able to make it back. He would like to.

But I'm impressed as others. My questions perhaps have been a little controversial, but I'm impressed by your background, your ability, your academic record, and your obvious experience in banking. I just wish you weren't so solidly Republican, but then nobody is perfect.

Mr. CLARKE. Well, we all have our deficiencies.

Senator PROXMIRE. So the committee will be in recess until Senator Cranston appears and I apologize for keeping you so long. If this lasts more than a few minutes we will adjourn.

Mr. CLARKE. All right. I have nothing to do but be with you all.

Senator PROXMIRE. Thank you.

[Recess.]

Senator PROXMIRE. The Committee will come to order.

Senator Cranston has come in and Senator Cranston has the opportunity to ask questions. Go right ahead.

Senator CRANSTON. I don't have any questions at this point. Thank you.

Senator PROXMIRE. Well, thank you for being so patient, Mr. Clarke. We very much appreciate it. You've been here now for 2 hours. It's been 2 hours well spent. Thank you very much.

Mr. CLARKE. Thank you very much. I appreciate having the opportunity to be here.

Senator PROXMIRE. The committee is adjourned.

[Whereupon, at 11:25 a.m., the hearing was adjourned.]

[Biographical sketch of nominee follows:]

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Clarke (LAST) Robert (FIRST) L. (OTHER)

Position to which nominated: Comptroller of the Currency Date of nomination: _____

Date of birth: 29 (DAY) June (MONTH) 1942 (YEAR) Place of birth: Tulsa, Oklahoma

Marital status: Married Full name of spouse: Jean T. Clarke

Name and ages of children: Robert Logan Clarke, Jr. (15)

Education:

Institution	Dates attended	Degrees received	Dates of degrees
Hobbs High School Hobbs, New Mexico	1956-1959	High School Diploma	June 1959
Rice University Houston, Texas	1959-1963	B.A.	June 1963
Harvard Law School Cambridge, Massachusetts	1963-1966	LLB	June 1966

Honors and awards: List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

Eagle Scout

Hugh Scott Cameron Service Award (Rice University)

Distinguished Military Graduate (Rice University)

Memberships: List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Organization	Office held (if any)	Dates
See Schedule Attached.		

Employment record: List below all positions held since college, including the title or description of job, name of employment, location of work, and dates of inclusive employment.

May 1966-November 1966	Hinkle, Cox, Eaton, Coffield and Hensley Attorneys at Law Roswell, New Mexico	Attorney
November 1966-November 1968	U.S. Army	
	Fort Benning, Georgia (11/66-2/67)	Infantry Officer Basic Training
	Johnson Space Center, Houston, Texas (2/67-11/68)	Staff Attorney, Office of Chief Counsel
November 1968-Present	Bracewell & Patterson Houston, Texas	Attorney

Government experience: List any experience in or direct association with Federal, State, or local governments, including any advisory, consultative, honorary or other part-time service or positions.

Legislative Assistant, U.S. Senator E. L. Mechem (N.M.), Summer 1964

Published writings: List the titles, publishers and dates of books, articles, reports or other published materials you have written.

None.

Political affiliations and activities: List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years.

Harris County Republican Party: Precinct Chairman, 1970-1974, 1976 to present; Legal Counsel, 1984 to present; Senatorial District 15: District Chairman, 1978-1980; Rules Committee, 1978, 1980 Conventions Resolutions Committee, 1982 Convention; Chairman, Resolutions Committee, 1984 Convention; Delegate to numerous state and district conventions, 1970 to present

Board of Directors, Houston Political Action Committee (HOUPAC), 1983 to present

Active participation in numerous local, state and federal campaigns in Texas and New Mexico for Republican candidates, including the campaig for: U.S. Senator E. L. Mechem (R.-N.M.) 1964; Anderson Carter (U.S. Senate-1966) New Mexico; Bill Archer (7th Congressional District-Texa George Bush, U.S. Senate (1970)-Texas; Harris County, Texas races for Ashley Smith and Chase Untermeyer (Texas House of Representatives); Christin Hartung (Houston, Tx. City Council); Louis Macey (Houston, T City Council); Presidential Campaigns in 197? (Nixon), 1976 (Ford), 1 (Connally, Reagan-Bush), 1984 (Reagan-Bush Steering Committee).

Political contributions: Itemize all political contributions of $500 or more to any individual, campaign organization, political party, political action committee or similar entity during the last eight years and identify the specific amounts, dates, and names of the recipients.

See Schedule Attached.

Qualifications: State fully your qualifications to serve in the position to which you have been named. (attach sheet)

Attached.

Future employment relationships:

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.

Yes, except for receipt of withdrawal benefits discussed on page 5.

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization.

No.

3. Has anybody made you a commitment to a job after you leave government?

No.

4. Do you expect to serve the full term for which you have been appointed?

Yes.

Potential conflicts of interest:

1. Describe any financial arrangements or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

Upon withdrawal from the law firm of Bracewell & Patterson, I will receive withdrawal benefits paid by that firm to all withdrawing partners under the terms of that firm's partnership agreement.

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated.

Secretary and Director, Centerville Bancshares, Inc., Centerville, Te

Director, Allied Beltway Bank, Houston, Texas

Advisory Director, Centerville State Bank, Centerville, Texas

See attached schedules for listing of indebtedness to banks and investments in banks and bank holding companies.

3. Describe any business relationship, dealing or financial transaction (other than tax-paying) which you have had during the last 10 years with the Federal Government, whether for yourself, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated.

None.

4. List any lobbying activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation at the national level of government or affecting the administration and execution of national law or public policy.

None.

5. Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to the above items.

Civil, criminal and investigatory actions:

1. Give the full details of any civil or criminal proceeding in which you were a defendant or any inquiry or investigation by a Federal, State, or local agency in which you were the subject of the inquiry or investigation.

None.

2. Give the full details of any proceeding, inquiry or investigation by any professional association including any bar association in which you were the subject of the proceeding, inquiry or investigation.

None.

Memberships

Organization	Office Held (if any)	Dates
American Bar Association	-	1966 to present
State Bar of Texas	-	1967 to present
State Bar of New Mexico	-	1966 to present
Texas Bar Foundation	-	1985 to present
Houston Bar Foundation	-	1983 to present
Houston Bar Association	-	1968 to present
Rice University Alumni Association	Chairman, Area Clubs Committee (1984-1985)	1963 to present
Texas Association of Bank Counsel	-	1976 to present
Association of Harvard Alumni	-	1966 to present
Rotary Club of Houston	Trustee, Student Education Fund (1975-1984)	1972 to present
Houston Center for Photography	Advisor (1983 to present)	1983 to present
Houston Museum of Fine Arts	-	1982 to present
Houston Symphony Society	-	1968 to present
Tuesday Breakfast Club	President (Jan. 1976-Jan. 1978); President (Jan. 1985-June 1985)	1972 to present
Santa Fe Opera	-	1983 to present
Southwestern Association on Indian Affairs, Inc.	-	1984 to present
Independent Bankers Association	-	1980 to present
Houston Museum of Natural Science	-	1978 to present
American Automobile Association	-	1979 to present
The Houston Club	-	1971 to present
Century Club	-	1983 to present
River Oaks Country Club	-	1974 to present
Houston Metropolitan Racquet Club	-	1976 to present
Cotillion Dance Club	-	1973 to present
Mechem's Sangre de Cristo Racquet Club	-	1983 to present
Houston Zoological Society, Inc.	-	1981 to present
Boy Scouts of America	-	1954 to present
Georgetown Society, Inc.	-	1982 to present
Mercedes-Benz Club of America, Inc.	-	1980 to present

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Political Contributions

Associated Republicans of Texas:
- 1978 - $120.00
- 1979 - $195.00
- 1980 - $130.00
- 1981 - $270.00
- 1982 - $240.00
- 1983 - $240.00
- 1984 - $240.00
- 1985 - $200.00

Republican National Committee:
- 1978 - $ 75.00
- 1979 - $ 25.00
- 1980 - $100.00
- 1981 - $ 50.00
- 1982 - $ 50.00
- 1983 - $150.00
- 1984 - $100.00
- 1985 - $ 50.00

Harris County Republican Party:
- 1979 - $ 330.00
- 1980 - $ 100.00
- 1981 - $ 488.00
- 1982 - $ 375.00
- 1983 - $ 125.00
- 1984 - $ 125.00
- 1985 - $1,700.00

Kay Hutchison (Campaign for U.S. Congress):
- 1978 - $540.00
- 1982 - $100.00

U. S. Congressman Bill Archer:
- 1978 - $ 50.00
- 1980 - $300.00
- 1982 - $150.00

John B. Connally, Jr. (Presidential Primary Campaign)
- 1979 - $ 50.00
- 1980 - $600.00

John Holmes, Jr. (Harris County, Texas District Attorney):
1980 - $520.00
1984 - $100.00

Richard Parker (Texas State Legislature):
1980 - $500.00

1980 Republican Presidential Unity Committee - $500.00

1980 Texas Victory Dinner (Texas Reagan-Bush Campaign) - $1,430.00

Victory '84 Fund (Texas Reagan-Bush Campaign) - $1,500.00

1982 - A Salute to George Bush Dinner - $500.00

Mike Richards for State Treasurer:
1980 - $500.00
1981 - $500.00

Houston Political Action Committee:
1982 - $1,000.00
1983 - $1,000.00
1984 - $ 540.00
1985 - $ 520.00

U.S. Senator Phil Gramm:
1984 - $500.00
1985 - $ 50.00

1982 - An Evening of Celebration, $2,000.00

Bracewell & Patterson Political Action Committees:

1978 - $ 600.00
1979 - $1,200.00
1980 - $1,275.00
1981 - $1,349.16
1982 - $1,530.00
1983 - $2,018.75
1984 - $2,000.00
1985 - $1,450.00

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Since joining the Houston law firm of Bracewell & Patterson in 1968, I have worked on a wide variety of business and corporate transactions. In 1972, I formed the Banking Section for Bracewell & Patterson and was the Section's initial lawyer. Since that time the Section has grown to over ten attorneys with a practice throughout the State of Texas and in New Mexico, Oklahoma, Louisiana and Arkansas representing banks and financial institutions of all sizes. I have concentrated my practice in the regulatory area which has included the chartering of state and national banks and savings associations, representation of clients in connection with the purchase and sale of control of financial institutions and their respective holding companies, formation of bank holding companies, state and federal securities registrations, counsel to managements of financial institutions concerning expansion opportunities and the effects of banking regulatory changes and representation of financial institutions and their managements in state and federal banking enforcement matters. Additionally, I have served as a member of the Board of Directors of Allied Beltway Bank, Houston, Texas, since 1974 and as an Advisory Director of Centerville State Bank, Centerville, Texas, since 1981. Through these Board positions and my professional practice, I believe that I have developed an understanding of the operational aspects of financial institutions and the problems which they encounter both with the bank regulatory system and in their business relationships.

Investments

At present, I have investments in the banks or bank holding companies listed below. Upon confirmation I plan to divest all of my interest in those institutions.

1. Century National Bank
   Washington, D. C.

2. InterFirst Corporation
   Dallas, Texas

3. Fannin Bancshares, Inc.
   Houston, Texas

4. Allied Bancshares, Inc.
   Houston, Texas

5. Progressive Bancshares Corporation
   Houma, Louisiana

6. Foremost Bancshares, Inc.
   Houston, Texas

7. Fairfield Bancshares, Inc.
   Fairfield, Texas

8. Centerville Bancshares, Inc.
   Centerville, Texas

9. First Port Allen Bancshares, Inc.
   Port Allen, Louisiana

10. Waxahachie Bancshares, Inc.
    Waxahachie, Texas

11. First Continental Bancshares, Inc.
    Gretna, Louisiana

12. Woodcreek Bank
    Houston, Texas

13. Texas Capital Bancshares, Inc.
    Houston, Texas

14. First Gonzales Bancshares, Inc.
    Gonzales, Louisiana

15. Giddings Bancshares, Inc.
Giddings, Texas

16. United Bancshares, Inc.
Lake Charles, Louisiana

17. Texas National Bank
Austin, Texas

18. First Interstate Bancorporation
Los Angeles, California

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As of September 30, 1985, I was indebted to the financial institutions listed below. Upon confirmation I plan to consolidate all my liabilities either in State chartered subsidiaries of Allied Bancshares, Inc. or in other State banks not subject to regulation by the Comptroller of the Currency.

1. Allied Champions Bank
   Houston, Texas

2. Allied Bank of Texas
   Houston, Texas

3. National Bank of Commerce of Houston
   Houston, Texas

4. InterFirst Bank Fannin
   Houston, Texas

5. Texas Capital Bank-Richmond
   Richmond, Texas

6. First National Bank of Crowley
   Crowley, Louisiana

7. Texas Commerce Bank-Austin, N.A.
   Austin, Texas

8. First City Bank
   New Orleans, Louisiana

9. Allied Beltway Bank
   Houston, Texas

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